IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 6380 of 1994

Between:

Kondapalli Satyanarayana Murthy, S/o.Yerakayya,

R/o.Vetlapalem, Samalkota Mandal, East Godavari District.

..... PETITIONER

AND

1. The Land Reforms Tribunal, Kakinada, East Godavari District,

rep. by its Chairman.

2. Noothakki Akkamamba, rep. by GPA Holder

Yelamarthi Narayana Rao Chowdary,

R/o.Tanuku, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus directing the 1st respondent to continue the petitioner in an extent of 15 acres covered by S.No.75 of Doddigunta (v), Rangampet Mandal, East Godavari District as a tenant to the Government as per the orders of the Land Reforms Tribunal in L.C.C. No.2179/KDA/75 dated 6-11-1985 and also the order passed in L.R.A. No.21/91 dated 20-2-1993.

Counsel for the Petitioner: MR. G.KRISHNA MURTHY

Counsel for Respondent No.1: GOVERNMENT PLEADER FOR REVENUE

Counsel for Respondent No.2: None appeared.

The Court made the following:

ORDER:

This writ petition is filed seeking Writ of Mandamus to direct the 1st respondent to continue the petitioner in possession of the land admeasuring Ac.15-00 in Sy.No.75 of Doddigunta Village, Rangampet Mandal, East Godavari District.

The 2nd respondent is declarant under the provisions of Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for brevity 'the Act'). After enquiry, the 2nd respondent was found to be holding the land in excess of the ceiling limits to an extent of 1.244 standard holdings. To take possession of the excess land by taking necessary steps as provided under the Act and the Rules made there under, possession of the land in Sy.No.75 was also taken. It is the case of the petitioners that the Land Reforms Tribunal in L.R.A.No.21 of 1991 by order dated 20.2.1993 permitted the claimants/tenants therein to continue in possession as tenants of the Government. Basing on such orders passed by the appellate authority in case of similarly situated persons, the present writ petition is filed seeking the relief.

In counter affidavit filed on behalf of the 1st respondent, it is stated that the 2nd respondent has filed surrender statement which includes the land in Sy.No.75 totally admeasuring Ac.27.93 cents. So far the computation of holding of the land is not questioned and the said computation became final. It is also not in dispute that the land in Sy.No.75 for which the petitioner herein is claiming tenancy rights is also the land which is shown in the statement filed by the 2nd respondent for the purpose of surrendering the excess land.

Under Section 11 of the Act where any land is surrendered or deemed to have been surrendered under the Act by the owner, the concerned authority can take possession or authorize any officer to take possession of such land and thereupon such land shall vest with the Government free from all encumbrances from the date of such order.

In this case, the said land for which the petitioner is claiming tenancy is already computed to be the excess holding of the 2nd respondent herein and the said order became final. In view of the surrender of land in question which was accepted, the land vested with the Government free from all encumbrances. In that view of the matter, the petitioner cannot have any independent right of tenancy to continue in possession at this point of time. Though the petitioner relied on a judgment of the Supreme Court in **MERIA VENAKTA RAO v STATE OF ANDHRA PRADESH,** having regard to the fact that the land which was computed to the holding of the 2nd respondent – declarant became final, the ratio decided in the said case cannot be made applicable to the facts of the case on hand. If the land is wrongly computed, the petitioner ought to have questioned the very order passed by the primary authority in the land ceiling proceedings. But, having regard to the fact that the computation of holding of the 2nd respondent was allowed to be final and in view of the fact that the 2nd respondent has declared the said land as excess land, which was taken possession by the Government, at this stage, the petitioner cannot seek possession of the same as tenant of the Government. Such benefit given by the appellate authority in similar cases is not a ground for grant of relief in a petition under Article 226 of the Constitution of India.

The writ petition is devoid of merits and the same is accordingly dismissed. No order as to costs.

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9-12-2004

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To

1. The Chairman, Land Reforms Tribunal, Kakinada, East Godavari Dist.

2. Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T).

3. Two CD copies.